IN THE

Supreme Court of the United States

OCTOBER TERM, 1939

No. 132

RAFAEL SANCHO BONET, Treasurer,
Petitioner,

vs.

THE TEXAS COMPANY (P. R.) INC.,
Respondent.

**REPLY BRIEF FOR PETITIONER,
IN REPLY TO RESPONDENT'S BRIEF IN OPPOSITION**

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I.

Respondent's brief in opposition is substantially a plea of confession and avoidance. Respondent does not even attempt to deny that the Circuit Court of Appeals erred, as pointed out in our Petition, in overruling the local Territorial Supreme Court of Puerto Rico's construction of the local Territorial statute (Sec. 9 of the Act as amended in 1925) as according the employer the benefit of an unrestricted appeal from the order of the Workmen's Relief Commission [from which, as the insular Supreme Court held, it necessarily followed that, this Respondent not having availed itself of its right of appeal, the determination of its liability by the Commission had become *res adjudicata*, and not subject to collateral attack, either by the Respondent company's former certiorari proceedings (which the insular District Court,

affirmed by the Supreme Court, had dismissed for want of jurisdiction), or by the present injunction suit].

As we have said, Respondent's brief in opposition does not even attempt to assail the correctness of our position here. By its silence, it admits this primary error of the Circuit Court of Appeals.

II.

Respondent suggests, however, that (*Brief*, "I", pp. 4-5): "No question is raised which would warrant granting certiorari".

Respondent's suggestions are: (1) That the decision of the Circuit Court of Appeals did not rest solely upon its overruling of the insular Supreme Court's interpretation of Section 9; and (2) That the interpretation of Section 9 is in any event not "an important question of local law", but "involved a minor procedural point only".

THE ANSWER TO THESE SUGGESTIONS IS PLAIN:

A. *The importance of the question here presented does not lie primarily in the character or importance of the particular local statute involved;* but, on the contrary, as pointed out in our Petition ("Reasons for Granting the Writ", pp. 4-5), **in the importance of the maintenance of the rule** established by a long line of decisions of this court, and here disregarded by this decision of the Circuit Court of Appeals, **"as to the respect to be paid to such decisions of local Territorial courts interpreting local statutes"**. As we there said (*Petition*, p. 5):

> "That rule embodies an important principle of federal law with relation to the administration of the Territories. It is of public importance that its spirit be not disregarded, nor minimized, as is done by this decision of the Circuit Court of Appeals."

This is of great importance, particularly to the government and people of Puerto Rico, as well as to those of the other Territories.

B. *Respondent is not correct in saying* (*Brief*, p. 5, "(4)") that the Circuit Court of Appeals' erroneous interpretation of Section 9, in overruling the local Supreme Court's interpretation of it, *"involved a minor procedural point only"*. To the exact contrary, it is the very thing that is determinative of the substantial rights of the parties here, and in the companion cases; and is the thing that is expressive of the local Supreme Court's interpretation of THE POLICY OF THE LEGISLATURE to provide a method of speedy determination of claims in workmen's compensation cases of this character.

The legislative power to do this, and to invest the Commission with authority to make findings of fact and determinations of liability, and to make such determinations final and binding between the parties, in the absence of appeal to the courts by either party in accordance with the reasonable mode prescribed by the statute, has been sustained in many decisions relating to workmen's compensation acts and other classes of more or less kindred statutes, both by the State courts and by this Court. The public policy is plain, as well as the value to the community of the speedy determination of such claims.

C. No question is raised by Respondent here but that the thirty days allowed by this statute for appeal from the Commission's decision to the District Court (Sec. 9; Appendix to our Petition, pp. 35-36) afforded ample and sufficient remedy to the employer company. No reason is even suggested for this Respondent's failure to avail itself of the remedy thus afforded by the statute.

D. The insular Supreme Court's decision that (R. 32; 52 P. R. Dec. 658, 666; *quoted in our original Supporting Brief here*, p. 20):

> "No other recourse was taken by plaintiff, and the order remained standing, no effort being necessary to conclude that after the years passed, *plaintiff is not in position to do now by injunction what in due*

time it could have done by the means placed at its disposal by the law", (Italics supplied)

is directly in line with the decision of this Court in *Newport News Co.* vs. *Schauffler*, 303 U. S. 54, 56-57, 58, arising under the National Labor Relations Act, where a similar question was involved of the exclusiveness of the remedy, given by that statute, of appeal to the Circuit Court of Appeals from decisions of the National Labor Relations Board. This Court stated the case as follows (303 U. S. at pp. 56-57):

> "The case was heard by the District Court upon the plaintiff's application for a temporary injunction and the defendants' motion that the bill be dismissed on the ground, among others, that *the Company had failed to exhaust its administrative remedies and that granting the relief prayed for would be an usurpation of the authority vested by the Act in the Court of Appeals.* The court denied the temporary injunction and dismissed the bill on the ground that the Company had 'a plain, adequate and exclusive remedy under the terms of the Act itself, and that no irreparable damage is threatened, and that this [the District] Court has no jurisdiction of the controversy presented by the bill.' That decree was affirmed by the Court of Appeals for the Fourth Circuit, which held that the Company *'has an adequate remedy under the statute* and may not apply for relief in equity until it has exhausted the administrative remedy there provided.' 91 F. (2d) 730." (*Italics supplied*)

This Court affirmed the decree and judgment of the lower courts, following its own prior decision the same day in *Myers* vs. *Bethlehem Corporation*, 303 U. S. 41, 48-52, and adding (303 U. S. 54, *supra*, at pp. 57-58):

> "The Act does not purport to leave the determination wholly to the Board. It confers upon the Board exclusive initial power to make the investigation, but

provides for judicial review by the Circuit Court of Appeals."

And in the *Myers* case, arising under the same statute, this Court said (303 U. S. 41, *supra*, at p. 50):

> "Since the procedure before the Board is appropriate and the judicial review so provided is adequate, Congress had power to vest exclusive jurisdiction in the Board and the Circuit Court of Appeals. *Aniston Manufacturing Co.* vs. *Davis*, 301 U. S. 337, 343-346."

E. It cannot be questioned that the Legislature of Puerto Rico possessed like legislative power to vest exclusive jurisdiction in the Workmen's Relief Commission, with an appeal provided to the District Court, by the Act here in question. The Legislature has been invested by the Congress, by Sections 25 and 37 of the Organic Act (Act of March 2, 1917, c. 145, 39 Stat. 951 *et seq.*) with "all local legislative powers" to "extend to all matters of a legislative character not locally inapplicable", with express "authority, from time to time as it may see fit, not inconsistent with this Act, to organize, modify, or re-arrange the courts and their jurisdiction and procedure" (Section 40). Under that grant, "as broad and comprehensive as language could make it", "legislative powers were conferred, nearly, if not quite, as extensive as those exercised by the state legislatures." (*Puerto Rico* vs. *Shell Co.*, 302 U. S. 253, 260-262).

F. *It is well-settled that the decision of such an administrative agency as the Commission,* under this statute, with appeal provided by the statute to the District Court, constituted "due process of law", and—[after due hearing, as Respondent has expressly alleged was had in this case (*Bill of Complaint*, Par. 5, R. 2-3), and in the absence of any claim of any kind of irregularity in the proceedings, and after the expiration of the statutory time al-

lowed for the appeal, without any appeal having been taken],—*became as final and conclusive between the parties as the judgment of any court*, and as unassailable upon collateral attack. *Anniston Mfg. Co.* vs. *Davis*, *supra*, 301 U. S. 337, 345-357; *Myers* vs. *Bethlehem Corporation*, *supra*, 303 U. S. 41, 48-51; *St. Joseph Stock Yards Co.* vs. *United States*, 298 U. S. 38, 50-51; *Shields* vs. *Utah Idaho R. Co.*, 305 U. S. 177, 180, 182, 184-185; *Voehl* vs. *Indemnity Ins. Co.*, 288 U. S. 162, 166-167; *Crowell* vs. *Benson*, 285 U. S. 22, 46-48, 50-51 (*and see also the dissenting opinion of* JUSTICES BRANDEIS, STONE *and* ROBERTS, at pp. 68 *et seq.*, and the State decisions there collected in footnote 4,—concurring in this respect with the majority opinion of the Court). This Court there said (*Opinion of the Court*, 285 U. S. at pp. 46-47):

> "Apart from cases involving constitutional rights to be appropriately enforced by proceedings in court, there can be no doubt that the Act contemplates that, as to questions of fact arising with respect to injuries to employees within the purview of the Act, the findings of the deputy commissioner, supported by the evidence and within the scope of his authority, shall be final. *To hold otherwise would be to defeat the obvious purpose of the legislation* to furnish a prompt, continuous, expert and inexpensive method of dealing with a class of questions of fact which are peculiarly suited to examination and determination by an administrative agency specially assigned to that task. That object is to secure within the prescribed limits of the employer's liability an immediate investigation and a sound practical judgment, and *the efficacy of the plan depends upon the finality of the determinations* of fact with respect to the circumstances, nature, extent and consequences of the employee's injuries and the amount of compensation that should be awarded. (*Italics supplied*)

And in *Voehl* vs. *Indemnity Ins. Co.*, *supra*, 288 U. S. 162, 166, this court said:

> "The proceedings of the deputy commissioner conformed to the statute. The precise issue, whether the

injury arose out of and in the course of the employment, turned on the general nature and scope of the employee's duties, the particular instructions he had received and the practice which obtained as to work in extra hours or on Sundays, and the purpose of the journey in which he was injured. We think that there can be no doubt of the power of the Congress to invest the deputy commissioner, as it has invested him, with authority to determine these questions after proper hearing and upon sufficient evidence. *And when the deputy commissioner, following the course prescribed by the statute, makes such a determination, his findings of fact supported by evidence must be deemed to be conclusive. Crowell* v. *Benson*, 285 U. S. 22, 46, 47; *L'Hote* v. *Crowell*, 286 U. S. 528." (*Italics supplied*)

III.

Respondent incorrectly says (*Brief*, p. 7) that:

"There can be no question as to the correctness of the decision of the Circuit Court of Appeals in holding that there was jurisdiction in equity to review the orders of the Workmen's Relief Commission since it is not disputed that the only way in which the awards could have been collected at the time they were handed down was by suit by the Attorney General in which suit respondent could have raised the defense that it was insured",

(citing the last paragraph of Section 7 of the Act as amended in 1925, Laws of Puerto Rico, 1925, p. 926, quoted, Appendix to our Petition, p. 35). That paragraph of Section 7 provides:

"In the case of an accident to a laborer while working for an employer who in violation of the law is uninsured, the Workmen's Relief Commission shall determine proper compensation, plus expenses incurred by it, and shall report the same to the Attorney General for institution of proper action, in a court of competent jurisdiction, against said em-

ployer to recover the aforesaid sum." (*Emphasis supplied*)

A. *Respondent's erroneous statement here* plainly echoes the similar erroneous assumption in the opinion of the Circuit Court of Appeals, where, in connection with its erroneous conclusion, incorrectly overruling the Territorial Supreme Court's interpretation of Section 9 of the Act, and incorrectly holding [*what the Respondent does not now even attempt to defend*] that the Respondent "had no right of appeal under Section 9 from the orders of April 24, 1928, to review the question whether or not it was an uninsured employer", the Court of Appeals, quoting the above provision in the last paragraph of Section 7, said, *in an apparent attempt to bolster up its construction of Section 9* (R. 63-64):

> "It is also apparent that there was no occasion for giving one declared by the Workmen's Relief Commission to be an uninsured employer an appeal under Section 9 to contest that question, for the last paragraph of Section 7 of the act provides: [quoting it as above]
>
> *"In this way the Legislature provided a remedy by which the employer,* the plaintiff here, *could plead in defense* of the action *that he was not an uninsured employer* and have the question whether he was or not determined by a court of competent jurisdiction." (*Italics supplied*)

B. It is noteworthy that *the Court of Appeals cites no authority in support of its conclusion* that in an action brought by the Attorney General, to collect it, after certification to him of the Commission's determination of "proper compensation" under Section 7 [*and under Section 20,* Laws of 1925, pp. 942-944, *Appendix to our Petition,* pp. 39-40, *authorizing the Commission "to charge" an employer "who has failed to comply with said provisions relative to the submission of reports and the payment of premiums on the dates hereinbefore specified", "with the amount of such compensation", "plus expense"*], the defendant employer then

> "could plead in defense of the action that he was not an uninsured employer, and have the question whether he was or not determined by a court of competent jurisdiction.."

C. *Neither does the Respondent here cite any authority to sustain that proposition.* Respondent contents itself with what must be regarded as the rather astonishing statement that (*Brief*, p. 7) "it is not disputed".

D. Not only is it certainly disputed; but it is plainly erroneous. No authority anywhere has been found to support it.

(1) There is, of course, no such express provision in the quoted paragraph of Section 7. **(2) The proposition appears to be directly in the teeth of the established rule that a proceeding to enforce a judgment** [*including a final determination of an administrative or quasi-judicial body, which has acquired the finality of a judgment*] **is collateral to the judgment; and that, therefore, no inquiry into the regularity or the validity of the judgment can be permitted in such a proceeding, any more than in any other form of collateral attack.** (3) The proposition is directly opposed to the holding of the insular Supreme Court; which, as already pointed out (*ante*, pp. 3-4), and as quoted in our original Brief in Support of our Petition here (p. 20), said (R. 32) that

> "plaintiff is not in position to do now by injunction what in due time it could have done by the means placed at its disposal by the law",

on the express ground that Respondent [plaintiff], having failed to appeal within the thirty days' time limited by the statute, was barred from making collateral attacks upon the Commission's order which had thus acquired the finality of a judgment.

E. **The established rule,** which may be said to have the authority of an axiom of the law, is stated as follows in the "Cyclopedia of Law and Procedure" (23 Cyc., pp. 1064-1065), in the article on "Judgments":

"2. *Proceedings to Enforce Judgment.* A proceeding to enforce a judgment is collateral to the judgment, and therefore no inquiry into its regularity or validity can be permitted in such a proceeding, whether it be a direct action on the judgment or on a note given in satisfaction of the judgment, or a proceeding to revive the judgment, or proceedings supplementary to execution, or bill in equity in aid of execution or a proceeding by mandamus to compel the levy and collection of a tax to provide funds for the payment of a judgment, the debtor being a municipal corporation."

Among the authorities cited in the footnotes in support of the text are [Note 76] the decisions of this court in *United States ex rel Harshman* vs. *Knox County Court,* 122 U. S. 306, 317-320; *United States* vs. *New Orleans,* 98 U. S. 381; *Mayor etc. of City of Davenport* vs. *United States,* 9 Wall. 409; *Supervisors of Rock Island County* vs. *United States,* 4 Wall. 435; and a number of decisions in the lower federal courts.

F. And directly in line with this established general rule is the decision of this court in *Shields* v. *Utah Idaho R. Co.,* 305 U. S. 177, 180, 182, 184-185, which appears to be conclusive on this question. This court there said (at pp. 184-185):

"*What is the scope of the judicial review to which respondent is entitled?* As Congress had constitutional authority to enact the requirements of the Railway Labor Act looking to the settlement of industrial disputes between carriers engaged in interstate commerce and their employees, and could include or except interurban carriers as it saw fit, no constitutional question is presented calling for the application of our decisions with respect to a trial *de novo* so far as the character of the respondent is concerned. With respect to that question, unlike the case presented in *United States* v. *Idaho,* 298 U. S. 105, where the Interstate Commerce Commission was denied the authority to determine the character of the trackage in question (*Id.,* p. 107), *the Commission in this instance was expressly directed to make the*

determination. As this authority was validly conferred upon the Commission, the question on judicial review would be simply whether the Commission had acted within its authority. Interstate Commerce Comm'n v. *Union Pacific R. Co.*, 222 U. S. 541, 547; *Interstate Commerce Comm'n* vs. *Louisville & Nashville R. Co.*, 227 U. S. 88, 91; *Virginian Railway Co.* v. *United States*, 272 U. S. 658, 663; *Tagg Bros. & Moorhead* v. *United States*, 280 U. S. 420, 444; *Florida* v. *United States*, 292 U. S. 1, 12; *St. Joseph Stock Yards Co.* v. *United States, supra.*" [298 U. S. 38, 51] (*Italics supplied*)

In the present case no question is made as to the regularity of the Commission's proceedings. To the contrary, Respondent's bill of complaint expressly shows the regularity of the Commission's investigation and hearing (Par. 5, R. 2-3; quoted in our Supporting Brief, p. 9).

G. It follows that this proposition of the Court of Appeals is clearly erroneous, and that it utterly fails to add any weight to that Court's opinion, or to Respondent's argument here.

IV.

Nor was the Court of Appeals' opinion strengthened in any way by its reference to *Crowell* vs. *Benson*, 285 U. S. 22, at pp. 54-62.

A. The Court of Appeals plainly misapprehended and misapplied that portion [pp. 54-62] of the opinion of this court in the *Crowell* vs. *Benson* case.

B. As a further make-weight in connection with its [erroneous] decision overruling that of the Supreme Court of Puerto Rico as to the employer's right of appeal under Section 9, of which the Respondent company had not availed itself, and following what the Court of Appeals had said in relation to the assumed effect of the last paragraph of Section 7 of the Act [*ante*, "*III*", pp. 7-11] that Court added (*Opinion*, R. 64):

"The bill should have been retained and the fact redetermined whether the plaintiff was or was not insured, *for that is a jurisdictional fact open to redetermination in this proceeding. Crowell* v. *Benson*, 285 U. S. 22, 54-62." (*Italics supplied*)

And again, near the end of its opinion, the Court of Appeals, once more directly after another reference to its [*erroneous; ante*, pp. 7-11] assumption concerning the supposed effect of Section 7 of the Act as opening to Respondent a right to re-litigate the merits of the Commission's decision, in defending a suit brought by the Attorney General to enforce collection of the compensation ordered by the Commission—[of which supposed "legal remedy of defense" it is said the Respondent would be "deprived" and thereby subjected to "irreparable damage", and "fraud" "practiced upon it" (R. 64), by sustaining the present proceeding in distraint by the Treasurer, in lieu of a suit to enforce collection]—adds (R. 68):

"And this is so without regard to whether the finding of the Workmen's Relief Commission in its orders of April 25, 1928—that the plaintiff was an uninsured employer—was jurisdictional or not. *We think, however,* that the finding of the Workmen's Relief Commission of April 24, 1928, that the plaintiff was uninsured, *was a condition precedent* to its *exercise of jurisdiction* to make the compensation awards against the plaintiff, and that, *being a jurisdictional fact,* it is open to collateral attack in this proceeding. *Crowell* v. *Benson*, 285 U. S. 22, 54-62." (*Italics supplied*)

C. THIS WAS A PLAIN MISUNDERSTANDING AND MISAPPLICATION OF THAT PORTION OF THIS COURT'S OPINION IN *Crowell* v. *Benson*.

D. *Respondent,* in its Brief in Opposition here, *does not even attempt to defend this proposition* of the Court of Appeals. It does not even mention it; does not cite *Crowell* v. *Benson* at all.

E. **There was no "jurisdictional fact" involved here.** Under the Puerto Rican statute [Sections 7 and 20, in connection

tion with Section 2, Laws of 1925, pp. 906-908, 924-926, 942-944; Appendix to our Petition, pp. 33-34, 34-35, 39-40],—the determination of whether or not the employer was an "insured" or an "uninsured" employer, within the meaning and requirements of Section 13 as amended by the Act of September 1, 1925 (Laws of 1925, pp. 938-942; Appendix to our original Petition, pp. 36-38), **was no more "jurisdictional" than was the determination of any other fact to be determined by the Commission;** e.g. the facts of the happening of the accident; of "the cause or causes thereof"; of "the character, nature and extent of the injuries sustained"; of the fact of the deaths ensuing; or of any other of the essential facts to be determined.

Under this statute *the Commission was expressly charged to make the determination of the fact* whether the employer was "insured" or was "uninsured"; and the Commission's determination of this question, either the one way or the other, did not deprive it of jurisdiction, nor affect its jurisdiction in any way, any more than did its determination, for example, of whether or not the death had ensued as a result of the accident. *Whichever way the Commission determined this question* of "insured" or "uninsured", *it still retained jurisdiction*; and it was still its duty to proceed, and to make the appropriate award.

If, on the one hand, it found that the employer was "insured" within the meaning of the Act, then it was its duty to proceed to adjust the compensation and to order it paid out of the "Government Trust Fund" [Section 7 of the Act, in connection with Section 2]. If, on the other hand, the Commission found that the employer was "uninsured" within the meaning of the Act, then it was likewise its duty to proceed to adjust the compensation, and to "charge said employer" with the amount [Section 7 in connection with Section 20, *supra*]. **In either event the Commission retained jurisdiction** and was required to proceed

to make its findings and order. *Neither finding ousted its jurisdiction.*

Under these circumstances the finding was in no sense a finding of a "jurisidictional fact" within the meaning of *Crowell* v. *Benson, supra.*

F. *It is only in relation to those fundamental facts upon the existence of which the power of the quasi-judicial administrative agency to proceed at all depends, that the rule* of that portion of the opinion of this Court in *Crowell* v. *Benson* [285 U. S. at pp. 54-62], here relied upon by the Court of Appeals, applies.

This court, in that case, after carefully pointing out the finality of the determinations of such Commissions or other *quasi*-judicial bodies in relation to all matters with the determination of which they may be charged by the Legislature, within the limits of the Legislature's constitutional powers [*Crowell* v. *Benson, supra,* 285 U. S. 22, 46-51, 52; *ante,* p. 6], expressly points out [*ib.*, at pp. 54 *et seq.*]:

> "*A different question is presented* where the determinations of fact are fundamental or '*jurisdictional*', *in the sense that their existence is a condition precedent to the operation of the statutory scheme.* These fundamental requirements are that the injury occur upon the navigable waters of the United States and that the relation of master and servant exists. These conditions are indispensable to the application of the statute, not only because the Congress has so provided explicitly (Sec. 3), but also because the power of the Congress to enact the legislation turns upon the existence of these conditions.
>
> "In amending and revising the maritime law, the Congress cannot reach beyond the constitutional limits which are inherent in the admirality and maritime jurisdiction. (pp. 54-55) • • •.
>
> "In relation to these basic facts, the question is not the ordinary one as to the propriety of provision for administrative determinations. Nor have we simply the question of due process in relation to notice and

hearing. It is rather a question of the appropriate maintenance of the Federal judicial power in requiring the observance of constitutional restrictions." (at p. 56). [*Italics supplied*]

And this Court there expressly points out that that *limitation or exception to the general rule of the finality* of such *quasi*-judicial Commissions' determinations has no application to the ordinary case where, as here, the Commission is exercising powers with which it is vested by the Act of a State [or Territorial] legislature not limited in its distribution of judicial powers by constitutional limitations, or by Article III of the Federal Constitution. The opinion proceeds [*ib.*, at p. 57]:

> "In this aspect of the question, the irrelevancy of State statutes and citations from State courts as to the distribution of State powers is apparent. A State may distribute its powers as it sees fit, provided only that it acts consistently with the essential demands of due process and does not transgress those restrictions of the Federal Constitution which are applicable to State authority."

G. *In this respect, the powers of the Legislature of Puerto Rico are as unlimited as those of the legislatures of the States;* whence it follows that *the State decisions* ARE *directly applicable here.*

H. Article III of the Federal Constitution has no application to the exercise of the Territorial Legislature's powers in this respect. It is settled that the courts established in Puerto Rico under the authority of the Organic Act of the Congress,—[including even the so-called "District Court of the United States for Puerto Rico"],—are not constitutional courts of the United States exercising any of the federal judicial power under Article III of the Constitution; but are simply "legislative courts" (*Romeu* v. *Todd*, 206 U. S. 358, 368; *Balzac* v. *Porto Rico*, 258 U. S. 298, 312), created under the authority of the

Congress in the exercise of its plenary powers under Article IV, Section 3, clause 2 of the Constitution "to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States". Under this plenary constitutional authority, the Congress, by the Organic Act for Puerto Rico of March 2, 1917 (c. 145, 39 Stat. 951 *et seq.*), has, as above noted (*ante*, p. 5), granted to the Legislature in the broadest terms, without any limitation whatever in this respect, "all local legislative powers", to "extend to all matters of a legislative character not locally inapplicable" (Secs. 25, 37), expressly including (Sec. 40) the "authority, from time to time as it may see fit, not inconsistent with this Act, to organize, modify, or rearrange the courts and their jurisdiction and procedure, except the District Court of the United States for Porto Rico".

There is nothing anywhere in that Organic Act,—[including the provisions of Sections 41 and 42, or in any other of the provisions relating to the United States District Court for Puerto Rico], or in any of the other provisions of the Act relating to the courts or judicial procedure,—or in any other Act of Congress,—"inconsistent" with the Legislature's grant to the Workmen's Relief Commission of the powers given it by the Act of 1925 here in question. In relation to all those matters the Legislature, as this court has emphatically said in the *Shell Company* case, *supra*, possesses substantially all of the powers habitually exercised by State legislatures (*Puerto Rico* v. *Shell Co.*, *supra*, 302 U. S. 253, 260-262; *ante*, p. 5).

I. It follows that *the limitation or exception* to the general doctrine of the finality of the determinations of such *quasi*-judicial Commissions, *with reference only to fundamental jurisdictional questions arising primarily from constitutional limitations*, stated on pages 54-62 of the opinion of this court in *Crowell* v. *Benson*, *supra* [285 U. S. 22, 54-62], *has no application here;* and that the

portion of the opinion of the Circuit Court of Appeals hereinbefore quoted (*ante*, p. 12), relying upon that exception, reveals a misapprehension and a misapplication by the Court of Appeals of that decision of this court.

J. As this court has expressly noted in subsequent cases, that limitation in *Crowell* v. *Benson* applies only to such cases of fundamental lack of jurisdiction. It is not applicable to any case of a decision by such a Commission as this, one way or the other, of any question lying within the boundaries of the Commission's jurisdiction. *Shields* vs. *Utah Idaho R. Co.*, *supra*, 305 U. S. 177, 184-185; *St. Joseph Stockyards Co.* v. *United States*, 298 U. S. 38, 82; *Washington Coach Co.* v. *National Labor Relations Board*, 301 U. S. 142, 147.

V.

Respondent contends (*Brief in Opposition*, pp. 4, 7-8),

> "(3) That, in any event, the awards could not be collected by distraint or summary attachment (R. 66-67)."

A. This refers to that portion of the opinion of the Court of Appeals which overrules (R. 64-68) the unanimous decision of the Supreme Court of Puerto Rico (R. 32-34), unanimously adhered to by that court upon reargument (R. 49-53), that the Treasurer's procedure by "distraint" to enforce payment of the Commission's award is in accordance with the provisions of the local statutes, and is correct.

B. This again, as is pointed out in our original Supporting Brief here [*Point VI*, pp. 28-30], is a question of the propriety of overruling the Territorial Supreme Court's interpretation of the local Territorial statutes relating to the procedure to enforce collection of the Commission's award, after it had become final. Here again the Circuit Court of Appeals, as was pointed out in our original Supporting Brief, was in error in overruling the local court's decision on this local question, and in failing

to accord the local decision the respect to which it was entitled under the established rule of this Court.

C. Here also this error of the Circuit Court of Appeals, as was pointed out in our original Petition [p. 3; last sentence under "Question Presented"] harks back to, and is based upon, and follows its basic error in not following the insular Supreme Court's interpretation of Section 9 of the Act allowing the employer an unrestricted appeal from the Commission's order, of which this Respondent should have availed itself.

D. Since the Commission's order, in the absence of appeal, had become final and binding between the parties upon the expiration of the thirty days within which the appeal might have been taken, and had thereby acquired the finality of a judgment, the insular Supreme Court was clearly right in treating it as having that finality for the purpose of supporting the Treasurer's distraint proceedings, and in holding that the litigation had *"terminated"*, within the meaning of the saving clause in the repeal section of the Act of 1935 relative to *"pending litigations • • • until their termination"* (Sec. 34, Laws of 1935, pp. 318-320; Appendix to our Petition, pp. 42-43); and, therefore, that the saving clause did not apply here, and that the Treasurer's collection proceeding was correctly instituted in accordance with the procedural statutes in force at the time when it was begun; that "this case was *terminated* by the order of April 24, 1928, the execution of which is now intended" (R. 33; *italics supplied*).

E. The Court of Appeals' contrary opinion is thus stated by that court (R. 67):

> "The Supreme Court concluded that, when the Workmen's Relief Commission, under the Act of 1925, made the orders assessing the compensations in question and sent them to be collected by the Attorney General by suit in a court of competent jurisdiction, the litigation or prosecution of the claims

was then terminated. *But we think that when the claims were sent to the Attorney General to bring suit against the plaintiff, the prosecution of the claims had just started, not terminated,* and that the Supreme Court was clearly wrong in holding that they were terminated." (*Italics supplied.*)

F. This in turn is clearly based upon the Court of Appeals' preceding erroneous assumption (R. 64, and 68; ante, "III", pp. 7-11) that under Section 7 of the Act the Respondent would have had open to it, in defense of any suit brought by the Attorney General to collect the compensation awarded by the Commission, an opportunity to re-litigate, on the merits, the questions already determined by the Commission.

The error of the Circuit Court of Appeals in that respect is plain, as hereinbefore pointed out.

G. It necessarily follows that it was likewise in error in overruling the insular Supreme Court upon its decision of the point here directly under discussion. [Even regardless of the respect which should have been paid, under the established rule, to the decision of that local Territorial Supreme Court on this question of the construction of local Territorial procedural statutes].

VI.

Finally, it is necessary to observe that **Respondent's** Brief in Opposition rather persistently attempts to prejudice the Petitioner's case by **unwarranted suggestions** that "*the equities of the case* are clearly with the Respondent" (*Brief,* p. 5; *italics supplied*); that (*Brief,* p. 6) in its bill of complaint the Respondent

> "alleged that it was an *insured employer* and that this was a matter of record with the Workmen's Relief Commission (R. 2) but that, nevertheless, the Workmen's Relief Commission's orders of April 24, 1928, had declared that respondent was not an insured employer";

that the stipulation (R. 12-13) on which the case was tried "confessed the ultimate facts of the bill" and that:

> "In the light of these facts it is clear that petitioner cannot at this late date dispute that the respondent was an insured employer";

that, if the respondent had not been an insured employer,

> "that fact would and should have been raised by the filing of an answer to the bill";

that "However, petitioner filed no answer"; and that

> "it was only in the Circuit Court of Appeals that petitioner first suggested that respondent had not 'negatived all possible hypotheses' so as to establish beyond doubt that respondent was insured";

and Respondent calmly assumes that (*Brief*, p. 6):

> "*Since respondent was insured* the orders of the Workmen's Relief Commission were issued illegally and without jurisdiction."

A. *That unwarranted assumption* runs all through the spirit of Respondent's Brief in Opposition. **There is no proper basis for it at all.** As was pointed out in our original Brief in Support of our Petition ("Statement of the Case", pp. 6-10 [particularly pp. 8-10]; incorporated by direct reference into the "Statement of the Case" in the Petition itself, p. 4), the Respondent company *did not directly* allege that it was an "insured employer"; but utterly failed to do so.

To the exact contrary, it carefully alleged certain particular detailed facts (R. 2-3, quoted in our original Supporting Brief, pp. 8-9), and then it alleged the *pleader's conclusion* that, by reason of those facts ["for which reason"], the plaintiff company was an "insured employer" under Section 13 of the statute,

> "as amended by Act No. 61 of 1921 (p. 491), that was then in force",

that is to say, as the statute stood on July 15, 1925, when the plaintiff says it filed its annual statement (Complaint,

Par. 3, R. 2),—*wholly ignoring the stricter requirements of the amendatory Act of September 1, 1925,* which had taken effect six weeks later, before the accident occurred on February 12, 1926, when these men were killed, and constituted the governing law at that time, by which the question of "insured" or "uninsured" employer was to be determined by the Commission. [*Confer* our original Supporting Brief, pp. 8-10, 11-14, 15].

B. *Respondent-plaintiff utterly failed to make any broad or positive or direct allegation that it was an "insured" employer;* such, for example, as was made by the respondent *Benson* in *Crowell v. Benson, supra,* 285 U. S. 22 [at p. 37], *"that Knudsen was not in the employ of the petitioner".*

The present Respondent avoided making any such direct allegation.

C. The above quoted suggestion in Respondent's brief [*Brief,* p. 6; *ante,* p. . . .], that this state of the pleadings [*which Respondent does not attempt directly to minimize or explain*] was "first suggested" in the Circuit Court of Appeals, is manifestly erroneous.

The record shows that Respondent made a similar attempt in the insular courts to interpret the stipulation (R. 12-13) upon which the case was tried as "confessing," as among the "ultimate facts," this contention of the Respondent that it was really an "insured employer," and that the Commission nevertheless *senselessly* held it to be "uninsured", and shows that the insular courts expressly rejected this interpretation of the stipulation. The Supreme Court of Puerto Rico said, in its opinion, as was pointed out in our original Supporting Brief here (R. 29-30; quoted, *Supporting Brief,* p. 10):

> "It is undisputable that *what was admitted* by defendant by said stipulation *were the facts* which occurred and which gave origin to all this proceeding since its inception. *The question* whether the Order of the Workmen's Relief Commission is or is not

valid *is not a question of fact* but of law exclusively." (*Italics supplied.*)

D. *Plainly, the ancient established rule, both of good pleading and of good sense, is to be applied here.* The allegations of this bill of complaint are to be taken most strongly against the pleader itself. Manifestly, if the facts had warranted it, this company's counsel would surely have made the direct allegation that it was "insured" at the time that this accident happened, and with relation to these men who were killed. Reading between the lines of this bill of complaint, manifestly what actually happened was that, back on July 15, 1925, before the adoption of the more stringent requirements of the amendatory Act of September 1, 1925 [which took effect six weeks later], and before there was any statutory requirement of the *payment of the premiums* at the same time that the statement was filed or in order to become an "insured employer", the company's local representatives filed a statement and awaited the processes of notification of the amount of the premiums by the Treasurer before they should pay them, and failed to notice, or ignored, the requirement [*Proviso*, Sec. 13] of a special statement as to temporary employees for less than a semester; and that when, afterwards, the more stringent amendatory statute of September 1, 1925, took effect, requiring *payment of the premium as a condition precedent to becoming an "insured employer"*, the company's local representatives failed to pay any attention to it; and that things ran along that way until after this accident, and after these men were killed; and that, therefore, the Commission necessarily found that, as to them, at that time, this company had failed to become an "insured employer", but was, on the contrary, an "uninsured employer", with relation to that accident; and, therefore, necessarily, under Sections 7 and 20 of the Act, the Commission charged the compensation against the company. And that the company's local representatives, knowing those facts, rea-

lized that a direct appeal from the Commission's order to the District Court under Section 9, on the merits, would be useless, and would merely result in its affirmance.

And that, therefore, in view of those facts, the company did not prosecute any such direct appeal; but, instead, waited until after the thirty days limited by the statute for the appeal had expired, and then attempted to assail the Commission's order collaterally by the certiorari proceedings which were ultimately dismissed by the insular Supreme Court on the ground that the Commission's order, thus become final after the expiration of the statutory period for appeal, was not subject to such a collateral attack. And then the company, finally, when faced with the present distraint proceedings of the Treasurer, again attempted this second collateral attack, by this injunction suit, upon which, once more, the insular courts held that the Commission's order had become final, and not subject to collateral attack; and therefore dismissed the present injunction suit.

CONCLUSION

For the reasons stated in our original Petition here, as well as in the Supporting Brief and in this brief, it appears plain that the decision of the Circuit Court of Appeals overruling the insular Supreme Court's interpretation of the controlling local statutes in this case was wrong; that for the reasons stated in our original Petition ["Reasons for Granting the Writ" pp. 4-5], certiorari should be granted; and that the judgment of the Circuit Court of Appeals should be reversed, and that of the Supreme Court of Puerto Rico affirmed.

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